

THE MARTHA'S VINEYARD COMMISSION

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MINUTES OF JULY 19, 1990

MARTHA'S VINEYARD COMMISSION MEETING

The Martha's Vineyard Commission held a continued public hearing Thursday, July 19, 1990 at 8:00 p.m. at the Oak Bluffs School Gymnasium, School Street, Oak Bluffs, MA regarding the following Development of Regional Impact (DRI):

Applicant: Martha's Vineyard Hospital
Martha's Vineyard Long Term Care Facility
Box 1477, Linton Lane
Oak Bluffs, MA 02557

Location: Linton Lane,
Oak Bluffs, MA

Proposal: Construction of a facility qualifying as a DRI since it is greater than 1,000 sq. ft., is a health facility designed to serve the residents of more than one town, includes both a hardsurface road and a parking lot for more than five vehicles within the Coastal District and is on property which has been in whole or in part the subject of a previous DRI.

Robert T. Morgan, Sr., Chairman of the Land Use Planning Committee, (LUPC), read the M.V. Long Term Care (LTC) Facility Continued Public Hearing Notice, opened the hearing for testimony, described the order of the presentations for the hearing, and introduced Tom Simmons, MVC Staff, to make his presentation.

Mr. Simmons reviewed the addendum to the M.V. Long Term Care (LTC) staff notes. (Available in its entirety in the DRI and Meeting File.) This addendum was in answer to questions from last week's public hearing. Mr. Simmons then answered questions from the Commissioners.

Mr. Geller, MVC Commissioner, asked if there was any policy announcing who the patients are going to be? Have they specified that they are all going to be Island residents. Mr. Simmons responded that they estimate the Island needs 200 LTC beds I anticipate therefor that they will all be Island residents. Their stated purpose is to house Island residents in the LTC facility.

Mr. Sullivan, MVC Commissioner, stated that it was suggested that the core services would suffer if funds are channeled? If one is less profitable than the other it might cause one to shrink and the other to grow. Mr. Brian Toomey, Director of Social Services of M.V. Hospital, stated that it is their intent to continue providing core

services at the Hospital.

Mr. Simmons then reviewed correspondence received since last week's public hearing as follows: FROM: Jo-Ann Taylor, member Oak Bluffs Conservation Commission, DATED: July 16, 1990. After the first part of our public hearing on July 12, I am not fully convinced that alternative paving is unsuitable for the large parking area between the facility and Brush Pond. We were told in 1989 that the paving blocks were not suitable for the 36 space parking area off Linton Lane, due to dangers to users of crutches, canes, etc. That project was significantly different in that the spaces will be added to an existing area. The new proposal is for 67 new parking spaces intended to be user specific and clearly marked for use by employees and staff. This segregated area could easily be identified with warnings to less ambulatory persons. An unsuspecting driver is not likely to wander into this new lot, as might be foreseen with the 36 Linton Lane spaces. The extremely fragile nature of the Brush Pond saltmarsh must be given its proper considerations and concessions. I hope that the Martha's Vineyard Commission will vote to break up the proposed merciless expanse of asphalt. I intend to propose the alternative paving blocks to my Board when we write our Order of Conditions for the project. Thank You. FROM: 4 abutters, Jean McIntosh Thurston, Marcia McIntosh Graham, Beryl McIntosh, Charles S. Graham, DATED: July 13, 1990. Summarized: We have no problem with the need for such a facility, it is the further strain on an already fragile ecosystem which concerns us. We are not convinced that the increased traffic has been looked into and will not become extremely difficult for the abutting residences. We are still concerned about the effectiveness of the plans for an upgraded sewerage treatment facility. We would like to see this done first and be in operation if and when the project is started. We hope that the 35 foot venting stack will ensure that no odors will bother the abutting residences. There is still noise from the dumpster and the loading area. Increased parking in the back, near our property line, also concerns us, since it will bring some of the noise closer. We would favor an alternative paving material. We have discussed the subject of combining a fence and various plantings along our property line with spokesmen for Hospital and with the landscaping architect, Mr. Presley. I hope this will be done. FROM: Julie Ann VanBelle, RN, DATED: July 12, 1990. Summarized: I am well acquainted with the need for a solution to the problem of caring for our elderly population and keeping them here at home. However, I am not convinced that the proposed presented by the Hospital is necessarily the best solution for our community. 1. Our current LTC has experienced chronic staffing shortages. 2. An influx of workers will create housing needs. 3. What procedures will be employed for filling the 147 beds? Will the Hospital be soliciting off-Island patients to fill empty beds not occupied by Islanders? 4. Regulations re: management of an acute care Hospital and LTC that occupy the same physical space. 5. Financial -- Our Hospital is 1 1/2 million dollars in dept. ... It deserves consideration when looking at health care services as a whole and then justifying the need for an additional 45,000 square feet of space. There are alternatives,.... congregate housing for those that qualify for Levels 3 & 4 type of care (fairly self-sufficient, keep elders in the community, not in a building that gives the appearance of a

community). I urge the Commission to request that the Hospital develop a proposal limiting the new unit to sixty (60) beds. This would reduce impact on all fronts -- staffing, housing, environmentally, and economically. It would also give the Island community time to evaluate the type of care offered by this institution and decide whether to expand along the same lines or develop alternative solutions to the problems.

Mr. Sullivan, MVC Commissioner, stated that it was suggested at the first public hearing that the septage and wastewater treatment facility might be to a minimum standard. It is not my impression but I would ask someone to respond to this. Mr. Ingram, applicant's architect, stated that to my knowledge we are using state of the art facilities. The Rotating Biological Contactor (RBC) is a proven system used around the Commonwealth and in other areas. We have exceeded minimum requirements. In response to Mr. Poole's request we have enclosed the entire facility. This is not required per regulations. We are doing this to control odors. Regarding the leaching areas, we need 11,000 ft. and we have 15,000. We have also added space in the RBC building to incorporate additional technology as it becomes available. The public hearing comments asked to go beyond the technology that exists and do things outside the Mass. regulations.

Tom Durawa, MVC Commissioner, stated that the Poole letter mentioned a contradiction with the system being vented and sealed. Could this be explained? Mr. Dick Barbini, applicant's engineer, stated that there will be a sealed cover over the tank with stacks for the gases. The gases will rise and be treated in the stack so that when the air comes out it will be odorless. Mr. Jason, MVC Commissioner, asked will it be toxic? Mr. Barbini responded no.

Mr. Geller, MVC Commissioner, stated that an abutter stated this project should not go forward because the Hospital is having financial problems. I have a few questions in that regard. Will the bond be secured by mortgage? Where will the additional 10% come from? Mr. Fedowitz, Director of LTC, responded that the 10% will come from the Hospital Endowment Fund. The mortgage security will not be necessary. Mr. Geller asked if the bond will be done at First Boston or put on the market? Mr. Fedowitz responded it will go to market. Mr. Geller then asked if Island residents will have the ability to buy? Mr. Fedowitz responded yes.

Jo-ann Taylor, Oak Bluffs Conservation Commission, asked if the MVC or applicant has any objections to permeable pavement? Mr. Morgan stated that LUPC and MVC will discuss this during the deliberation period. He asked a representative of the Hospital to respond. Mr. Ingram asked many questions of Ms. Taylor such as in which area, for what purpose and what type of permeable pavement? It was stated that this is a simple question and Ms. Taylor should not be grilled with technical questions. The applicant was asked to respond yes or no to the question of whether they have any objections to permeable pavement alternatives? Mr. Ingram stated no we have no objections but it would have to be explored in depth. We will work with the Oak Bluffs Conservation Commission on that.

Mr. Jason, MVC Commissioner, asked if the Hospital Foundation owned any other properties and their locations? Mr. Fedowitz responded yes. In Vineyard Haven and a small piece in West Tisbury. Mr. Jason then asked if these were considered for the location of the LTC facility? Mr. Fedowitz responded yes they were. But as you recall from last week's testimony it was consider the best location both operationally for services and for the care of the patients. The services and physicians are available here.

Liz Talbot, Oak Bluffs Conservation Commission, asked about the statement that the Executive Office of Environmental Affairs (EOEA) stated no environmental impact statements was required. I don't understand this since it does fall in wetland soils. There are also new regulations. Do they fall within these new regulations? Mr. Simmons referred to the staff addendum which includes a list of criteria. Basically the State office stated that no EIR or ENF was required. However they took into account the septage failure in 1985 and the need for a groundwater discharge permit. I have discussed this with MEPA and EOEA and this does not fall under any of the new thresholds.

Mr. Morgan called for all other testimony.

Ms. Marsha McIntosh Graham, abutter, stated that several things in the staff update disturbed her. On page 2 it states that the Hospital owns Hospital Road and doesn't intend to erect a toll booth. That is a red flag to us. Mr. Simmons stated this statement about toll booths is in direct response to an abutter's testimony last week. Ms. Graham continued that Linton Lane was closed a few years ago and they only notified a few of the abutters involved. Now we are discussing a new Hospital facility and extra parking and this concerns us very much. I went to the assessor's office and was told that Hospital Road was a Town Road and now the staff notes say it is owned by the Hospital. I would appreciate it if someone would clarify this. It seems that we are becoming land locked and I would like it checked out.

Pam Coguit, counsel to the Hospital, responded by stating that Hospital Road was never formally taken by the Town. All the people who use this road would never be denied that right. It is the only way to get to the property so legally it is an easement by necessity. The Hospital has no intention of closing it and probably has no legal right to do so.

Patrick King, resident of Windemere Road, stated their house has been there since 1910 and pre-dates the Hospital. When Linton Lane was closed they held a hearing on February 3, 1972. More than 1/2 of the residents in that area are summer residents and weren't about to come to a hearing held in February. Anyone here who owns land would be concerned if there was a cloudy title to their access. What would happen if the Hospital is acquired by a large off-Island conglomerate and they no longer assume we have a right of way? When they sell bonds and considering the profitability of the LTC it would be very desirable to other organizations. It opens the door and makes it easy to fatten a calf now that might be bought and slaughtered in the

future. A restriction should be put on the conveyance allowing our access.

Mr. Young, MVC Commissioner, stated we could look into the legality of the right of way and affirm this in our conditions on this DRI.

Ms. Eber, MVC Commissioner, stated it is not our place to get an easement. It is up to the abutters to do that.

Julie Ann VanBelle testified that the Hospital anticipates a deficit of \$450,000 this year. In its "On Call" letter it states that the Hospital is only reimbursed by Medicaid for 40-44% of the costs. How is the LTC going to subsidize the Hospital operating costs? We have no assurance that Acute Care will be subsidized. In the staff addendum it states that the Hospital's answer on staffing was that in the first year they would need 50 new employees and then an additional 29. That is a total of 79 employees. Last week it was stated they would need 100 employees. What happened to the 21 employees lost in that week? Why was it necessary to hire Hyatt to survey and say you could have the mothers of young children to fill these positions? Someone said that it was determined that the Island needs 200 LTC beds. We only have 147 beds. Would they be filled exclusively with Island residents? Please ask for a written statement on this so that the public has some recourse.

Mr. Simmons responded to the question of the change in employees. The Hospital will need about 100 employees but feels that some of these positions could be filled with existing Hospital personnel.

Mr. Jason, MVC Commissioner, asked Mr. Toomey to discuss the 25 mile radius as it relates to the Medicaid coverage? Mr. Toomey stated that the policy is that we must transfer patients if there is a nursing home bed in reasonable proximity. They decided that reasonable meant a 25 mile radius. There are no exceptions for ferries, it is 25 miles as the crow flies. So if we followed that procedure, which we don't, if a room didn't exist in our facility we would have to send patients off-Island. If we send them off-Island and the person refuses to go then they assume the liability for the bill. We don't practice that. Mr. Jason asked if the person was off-Island would the same rule apply? Mr. Toomey responded yes but there are more beds available on the Cape. The same rule applies but I wouldn't think that someone would want to leave their family, friends and community to come somewhere where they have to take a ferry to get to.

Mr. Filley, MVC Commissioner, asked is it within your purview of legality to hold beds open for community use? Mr. Toomey responded yes it is. Financially it wouldn't make sense for us not to do it. Then we would be in the same position of having to serve patients whose costs could not be reimbursed or send them off-Island. Mr. Filley asked if the Hospital envisions a written policy on this? Mr. Toomey responded there already is a policy for LTC placement.

Mr. Jason, MVC Commissioner, asked what this policy is? Mr. Toomey stated we consider critical need first. Then we consider if they are Island residents. Then we consider if it makes a difference if they

are here. Say for instance they are residents but have no friends or family here and no one is going to visit them and we have another occasion where we have someone who has lived here most of their life and has family here who would have to visit off-Island, the latter would have the priority. It makes a difference if they are a resident first and then if they have family here. Family priority is spouse first, children second.

Mr. Jason, MVC Commissioner, asked if it is the trend in LTC to have it near a hospital? Mr. Toomey responded yes. It provides cost saving and better care. It is also more appealing to the resident. If they break their hip, for instance, Medicaid will only hold the bed for 10 days while the patient is hospitalized. It can be extended to 15 days. If the patient is not back the patient will lose the nursing home bed and it would mean looking for another bed in another facility. What we are trying to do is have the services in the same facility. This would mean that the person wouldn't lose the bed. Financially it is in our interest to make sure that happens. Also we know we have a placement problem at the other end of the Hospital too. We have that problem from a financial as well as a human interest point of view.

Mr. Sullivan, MVC Commissioner, stated but that scenario wouldn't be any different if the LTC was on the Edgartown/Vineyard Haven Road? Mr. Toomey stated that is correct. The difference there would be what Dr. Hoxie spoke about last week. It is better for medical care and services. One of the problems we had with placing people off-Island is that if the Medical Director on staff is not on staff at the local hospital. The patient has to go to the emergency room for evaluation to be admitted. It is just not good continuity in care. This proposed facility will provide continuity in care.

Mr. Jason asked if they have ever done a survey of LTC patients and is it possible to submit it? Mr. Toomey stated that we did a survey and those ideas were incorporated into the design. That is why we did the Main Street design. To make it more like a residence, like their home, less like an institution.

Ms. Bryant, MVC Commissioner, suggested they come up with a name for the facility other than the Long Term Care Facility. So it won't feel so institutionalized. Mr. Toomey stated they have discussed this.

Mr. Young, MVC Commissioner, stated that up until now I thought that the Hospital must have done a feasibility study regarding financing. But now I don't understand how you can operate at a deficit and a) embark on a program like this and b) be determined to be financially stable. Mr. Toomey stated that the answer is that we cannot continue to operate under deficit conditions year after year. When looking at where that deficit came from a great deal came from unreimbursed funds that we could be reimbursed for by having this kind of LTC facility. If we were able to have the appropriate facility and be able to be reimbursed for these services we wouldn't have the losses that we do now. We would be able to be reimbursed. Our costs are enormous. When you have unreimbursed care someone pays for it. It is not unreimbursed entirely. Somebody pays for it. That is why costs go

up. If we have a nursing home we could get reimbursed for it and we won't have these losses. We cannot survive with these kinds of losses year after year.

Mr. William Jones testified as an abutter on Windemere Road. He described the location of his property. He stated that he missed last week's hearing but he has been briefed by his neighbors and he understands that his testimony has been submitted by one of his neighbors. I have 3-4 concerns. One is I never saw the pro-forma sheet as to how a deficit is going to be made up by creating a LTC facility and how the return on that will amortize the return on this investment. You must weigh into that the fluctuating returns you get from Medicare and other government sources of reimbursements. I have been to 2-3 hospital meetings and I am impressed with the colors of the outlines. I was impressed with a board where the hospital wrote down our questions and concerns. I understand they have incorporated ideas but I am not aware that any of these questions have been answered. Suppose the financial concerns and difficulties become worse and the rate of return doesn't match, what then? What will be the Foundation's position? Can they arbitrarily abandon commitments. Mr. Jones questioned the traffic counts and stated that one of the counters was broken during the counting period. He stated he is equally concerned with the wastewater treatment plant. Mr. Jones asked if the questions will be answered? Mr. Morgan responded that the questions from last week's hearing are provided in the staff addendum. We can't keep continuing the hearing as long as people keep asking question.

Mr. Lee, MVC Commissioner, asked if someone could respond to why lead and mercury were found in the January 1989 samples? Mr. Ingram stated he would have Mr. Neofotistos respond to that.

When there was no further testimony, the hearing was closed at 9:15 p.m. with the record remaining open for one week. Mr. Morgan stated the Hospital would be put on the agenda for a July 30th LUPC meeting.

Following a short recess, Mr. Filley, Chairman, opened the regular meeting of the Commission at 9:30 p.m. and proceeded with agenda items.

ITEM #1 - Chairman's Report

Mr. Filley stated as some you have noticed from the taste of the coffee, we have a new travelling coffee maker. Donations to the new coffee pot fund will be gratefully accepted.

Mr. Filley then discussed the letter from legal counsel regarding Mr. Schilling taking on the Acting Executive Directorship on the MVY Realty Trust pending DRI from Laurie White. The letter asked Mr. Schilling to file a statement of financial interests, which he has done. Mr. Filley read the proposed resolution regarding this matter. It is before the Commissioners to vote on accepting this resolution.

It was motioned and seconded to accept this resolution. It was asked if this was run by the State Ethics Commission. The response was no. This document was prepared by MVC's legal counsel. The motion to accept this resolution passed with no opposition, 2 abstentions, Sullivan and Colebrook.

ITEM #2 - Old Business

Mr. Filley stated a question has arisen regarding a past renovation to the Ship's Inn. The question arises as to the use of space and whether it would trigger DRI review. We will ask the Oak Bluffs Building Inspector and legal counsel for the Ship's Inn to our next meeting to discuss this matter.

ITEM #3 - Minutes of July 12, 1990

Mr. Filley stated that these minutes are not yet available due to problems with the tape recorder and the length of the meeting.

ITEM #4 - Committee and Legislative Liaison Reports

Mr. Morgan, Chairman of LUPC, reported that they had discussed the Playhouse Theatre DRI and will report under Item #5. We discussed the M.V. Hospital LTC Facility. We also discussed a question regarding the Edgartown Water Company and whether reconstruction of a stand pipe would be a DRI. The new pipe will be 42 X 100 cubic feet replacing a 21 X 82 ft. structure. This is open for discussion.

Ms. Eber, Commissioner, stated she would like to ask whether the height of the structure would interfere with planes going to the airports?

Mr. Jason, Commissioner, stated that it will be a facility over 6,000 sq. ft. which would trigger DRI review. Mr. Morgan stated this is cubic feet not square feet.

Ms. Greene, Commissioner, stated it would increase the size of a facility owned by a private company.

Mr. Jason asked Mr. Durawa if this is the same as the 2nd hand tank previously discussed? Mr. Durawa responded no. Mr. Durawa asked if when that was proposed it was considered a DRI? Mr. Jason stated I considered it a DRI and so did MVC legal counsel.

Mr. Morgan stated it is my feeling it should be a DRI since it increases the capacity by over 65%.

It was motioned and seconded that the reconstruction of the stand pipe for the Edgartown Water Company should be considered a DRI under checklist item 6.b. There was discussion regarding who would refer this application. The motion to consider this a DRI passed unanimously.

Mr. Morgan closed by stating there will be an LUPC meeting on July 30. We will discuss the M.V. LTC Facility jointly with the Oak Bluffs

Planning Board and Oak Bluffs Conservation Commission. We will also continue discussion on the DRI checklist.

Mr. Young, Chairman of the Search Committee, reported that they had 3 interviews on Wednesday and they will have another 2-3 on Saturday.

Mr. Early reported that they had looked at the BOQ facilities at the Airport to determine if there was potential for use as the future home of the Commission. It was decided there was not.

ITEM #5 - Discussion and Possible Vote - Playhouse Theatre DRI, Town of Edgartown

Mr. Filley reminded the public that this discussion is for Commissioners only, with the only public testimony being at the request of a Commissioner through the Chair. Mr. Filley called on Mr. Simmons to give a staff update.

Mr. Simmons, MVC Staff, reviewed correspondence and answers to questions received since the public hearing as follows: I have not received correspondence from the Fire Chief but I have had several conversations with him. He indicated that a) the proposed building could be adequately protected, b) use of the Vose property parking lot would be crucial to fighting a fire in the proposed complex and c) he would like to see emergency exits in the rear of both theatres. He did expressed concern that if that Vose lot was ever built up to its setbacks that could be a concern and he would like to be involved at that time because he might have a problem maneuvering equipment down an alley. The Chief promised to send written confirmation of this.

Mr. Sullivan, Commissioner, asked on the fire issue regarding the parking lot, did the Chief indicate whether having cars parked in the Vose lot would cause a problem fighting a fire? Mr. Simmons responded no. He simply said as long as the parking lot is there he sees no problem fighting a fire with ladders and equipment. I asked him to elaborate in the letter.

Mr. Simmons discussed the tree issue. The two trees generating concern are a maple tree and an elm tree. I had two responses. I was from certified arborist Walter Mercer who gave us an opinion at the request of the Vineyard Conservation Society. He has indicated that the maple is about 40 years old and in bad condition; it presently leans 3 tons to one side and may actually be unsafe. The elm on the back property line is "a prime candidate for preservation" It is about 50 years old and worth about \$12,600 in replacement value. He recommended no disturbance with 15 feet of its branch spread. We also have a letter from the tree warden which he read in its entirety. FROM: Alfred J. Fournier, Jr., DATED: June 27, 1990. This letter is in response to your request relative to inspecting trees on the proposed Theatre lot in Edgartown. I, as Tree Warden from the Town of Edgartown, inspected two trees located at the Summer Street driveway. One 20" maple at the southwest corner and one 15" maple between driveways at Summer Street. The above trees are in ill health as they are filled with deadwood, slugs, and are very diseased. Therefore, I have no objections to their being removed. If I can be of further

assistance, please do not hesitate to contact me. Mr. Simmons stated he doesn't know which trees this letter addresses.

Mr. Simmons then discussed the theatre to office ratio. Theatre to office in square feet is 1:2, because the theatre is two floors high. In cubic feet it is a 1:1 ratio. It was also asked if the applicant's traffic study took into account evening meetings at the Town Hall. It did not take those into account because the traffic engineers felt that the peak hour that they looked at was heavier than a later evening hour that had a Town Meeting. There was also a question of the dates of the traffic counts. During the course of the hearing the applicant believed it was before Labor Day. The actual traffic counts were taken September 1st and 2nd and September 15th and 16th. The applicant's used the data from the 15th and 16th because they claimed the figures were similar to pre-Labor Day counts. Those are the figures that were used. There was a question as to whether the FST Study that determined that at a peak hour the parking in Edgartown was saturated, 95% occupied, what that peak hour was. They didn't disclose it in the study. They simply said that at peak hour we found it to be 95% occupied and then offered no particular figures in that study for off-peak hours. So we don't know what that is. There was a question as to heating and cooling wells, where would they be and so forth. We received a letter from Edgar S. Bunker, Consulting Engineer, regarding that. It stated there would be 3 well systems requiring 3 supply wells and 3 discharge wells positioned on the site approximately 100 feet apart. The use of them would be conditioned upon a day of test borings to see if the soil could handle that. There is no alternative plan and I don't know what the soil conditions are.

Mr. Sullivan asked if he talked about how much water would be needed? Mr. Simmons responded that he assumes that 40 tons or 480,000 BTUH of cooling energy would be required at peak load and that would require 120 gallons per minute of well water. That is what it states in his letter.

Mr. Simmons then reviewed the following correspondence: FROM: Edgartown Planning Board, DATED: June 26, 1990. Summarized as follows: Suggest that for downtown vitality a movie theatre is needed. They request that the spaces be designated as theatre on the project plan and be used only as movie theatres. They ask we condition the lease to the theatre operator that it will be a year-round theatre and operate in the off-season a minimum of 3 days per week. They also recommend the one time contribution to the Transit Authority for the trolley. They are presently reviewing their present by-laws being inadequate regarding the \$400.00 per space annual payment. They also recommend that the applicant plant 5 elms along the walkway from South Summer Street paralleling Main Street along the Vose property to shield him. They also suggest that we not approved a specific landscaping plan but instead ask the applicant to allow the Conservation Commission to come up with a concept plan for the mini-park. FROM: Don & Priscilla Haberstroh, Dave & Beth, DATED: June 27, 1990. Summarized: They are home owners for the past 18 years, stay here all summer. They want a theatre in downtown Edgartown. They would like to go for ice cream afterwards. But they think this is too

much. Why do we need 2 small theatres? If this building were constructed without all the office space it would probably pass the height and wastewater regulations. Yes we need a theatre but keep the architecture and size reasonable. FROM: Charlotte Hall, Trustee, DATED: June 27, 1990. Reiterating that she called the Arnold Arboretum and talked to the maple tree expert and that the 40 year old maple tree in the middle is brittle and recommends it be removed and replaced. FROM: Anthony Iannocone, DATE: June 27, 1990. Summer resident owning two houses in Edgartown. Has seen the decline of the downtown area and believe a movie theatre with 3 stores would be a plus. We should condition them not to be tee shirt or souvenir stores. A nice espresso and pastry shop or fruit and salad shop would be great for the theatre goers and the late night crowd. If they are contemplating donating the Pocket Park to the Town, you should not even hesitate to approve this project. FROM: Cheryl A. Welch, RECEIVED: June 27, 1990. One important issue that I feel needs to be addressed is the zoning by-law regarding parking. No business have contributed so far so why all of a sudden is this project singled out. They should take into consideration the proposed \$20,000 donation to the Transit Authority. TO: Steven Vancour, Edgartown Wastewater Commission, FROM: The Halls, DATED: June 21, 1990. Responding to what the Halls say are inaccuracies in the Wastewater Commission's applying 35 gallons per seat per day to the ice cream parlour. The full text of the letter is available. FROM: Paul Cronson, DATED: June 19, 1990. Has spent many summers in Edgartown at my uncle's house. His great pleasure is to walk to the theatre and now he can't do it. There is less of a reason to stroll into Town. Let's open a theatre. FROM: Leonora Bettencourt, DATED: June 20, 1990. When I first came to Edgartown it was to spend summers. I have been a resident for 43 years. I remember music at the theatre and I am in favor of a movie theatre being back on Main Street. FROM: Judith Bettencourt, DATE: June 20, 1990. I am in favor of a movie theatre in town. (Full Text.) FROM: Anthony & Nancy Winch, DATE: June 21, 1990. We do not support a movie theatre in the wasteland often referred to as the Triangle. Bring back the movie theatre to downtown Edgartown. FROM: Paul Cunningham, DATE: July 3, 1990. As a part-time resident and tax payer for 9 years. I would enjoy the benefits of a year-round theatre in Edgartown. FROM: Benjamin Moore, project architect, TO: Edgartown Historic District Commission, DATE: June 29, 1990. Enclosing revised drawings for the Main and S. Summer Street elevations. Mr. Simmons showed the drawings and stated that basically there is a change in the roof pitch from 8:12 to 7:12 which means the height on Main Street would be 33 ft. as opposed to 35 ft. and the height on S. Summer Street would be 30 ft. The Main Street elevation at 33 ft. would still be one foot over the zoning by-laws but they feel they can go no further down without jeopardizing the architectural aesthetics. FROM: Edgartown Historic District Commission, DATE: July 18, 1990. In response to revised drawings, they agreed to accept amended architectural plans consisting of revised roof pitches. Requested that the demilune window be removed from S. Summer St. and be replaced with a wooden fan treatment, the architect to bring work-ups to the HDC for their approval. Admonishing Mr. Moore not to specify or install glass that is colored in any way. They note that they have not yet issued a certificate of appropriateness and are waiting for the MVC to act.

Mr. Simmons then answered questions from the Commissioners.

Mr. Schweikert, Commissioner, asked Mr. Simmons to reread the letter from the Edgartown Planning Board. Mr. Simmons read the letter in its entirety.

Ms. Colebrook, Commissioner, wanted to make a point in fact. When the Edgartown Tree Warden referred to those two trees on Summer Street, those are in fact public shade trees and are protected under General Law. Before those trees, if and when they are ever removed, must be with the approval of the Selectmen. Mr. Simmons stated that is G.L. Chapter 87, Section 1. No such trees can be cut, trimmed or removed without permission of the Tree Warden by any person even if he be the owner of land where the tree is situated.

Ms. Bryant, Commissioner, stated she wanted a review of the discussions with the Fire Chief? Mr. Simmons stated that conversation #1 took place immediately after the public hearing. I spoke to Mr. Bettencourt on the phone and he said that he could adequately fight fire at the location the way it is set up but it would be critical for him to use the Vose parking lot. I asked him to put that in a letter and I haven't received it. I spoke to him again today and his comments today were specifically 1) wants requirement that there be a fire exit in each of the back sections of the 2 theatres, 2) reiterated he could fight a fire the way it is presently proposed through the Vose parking lot, he didn't see a problem using it but 3) if the Vose's were ever to build to their setback abilities that he would be concerned about access to the building. Ms. Bryant stated it troubles her that we don't have any control over that Vose lot. I am concerned about voting for something that may not be adequately protect by the Fire Department in the future. He is saying that he can fight fires but he needs this parking lot. Well if Vose wanted to he could build there tomorrow. I think we have to address this. Mr. Simmons stated he is trying to get this letter.

Mr. Lee, Commissioner, asked if there aren't State building codes requiring emergency exits? Mr. Jason, Commissioner, stated it does not specify the location for these exits. It only requires 2 exits.

Mr. Wey, Commissioner, asked if the building is sprinklered? The response was yes.

Mr. Morgan, Chairman of LUPC, gave the LUPC recommendations stating that the discussion was based on Chapter 831. He read the sections from Chapter 831 and then listed the votes as follows: Section 14: 14a, the vote on this was 3 said yes, 1 said no, 1 abstained; 14b, 5 votes yes, 1 abstained; 14c, 6 voted yes; 14d does not apply. Section 15: 15a, 6 votes yes it is essential; 15b, 6 votes yes it would have an adverse effect, 15c, 3 yes would be more favorable, 2 no, 1 abstention, 15d, 5 voted yes it would adversely effect the housing, 1 abstained, 15e was passed over since it will be up to the Wastewater Commission, 15f, 6 votes yes it would be efficiently used, 15g, 6 votes yes it would aid the municipality, 15h, 6 voted no it would not adversely effect policies. It is recommended by LUPC to approve this

DRI with conditions. We have not necessarily spelled out the conditions. Individually members could speak to that. Things discussed included the Fire Chief statement, the Tree Warden's letter, the question on the heat pumps and their wells, the screening of the Vose lot as well as the Fire Chief's concerns, and generally the mass of the building, parking spaces and loss of the mini-park. The Town needs the park. The Town needs the theatre. The general feeling is not at all costs. One members stated that it is too much, too many stores. It was asked if the building could be any smaller. There was also concern with fire fighting on the Hall premises.

Mr. Filley opened the floor for general discussion.

Mr. Lee, Commissioner, asked if LUPC had discussed the loss of the 2 bedroom apartment? Mr. Morgan responded yes we did discuss that under 15d. Ms. Sibley, Commissioner, stated that I think when we reviewed the history of it we concluded that there had been a loss of the 2 bedroom apartment, which had already occurred, for whatever reasons. This loss had already happened. Mr. Lee asked the applicant to respond to when the loss had occurred? Mr. Hall stated that the shop keeper had lived about the shop until 4-5 years ago, maybe as many as 6 years. That is the last time it was used as a year round residence.

Ms. Green, Commissioner, stated that part of the discussion was even though it hadn't been a year round residence for 4-5 years, or whatever, it was a residence. There was concern that even as a summer residence there would be 2 bedrooms that would no longer be available.

Ms. Bryant, Commissioner, asked if there had been any thought given to housing employees? It was stated that LUPC did not discuss this.

Mr. Wey, Commissioner, stated that he likes the idea of rear exits to the theatre. I would like to see each theatre have a rear exit. I would like to see that as part of the conditions. I think it is a good recommendation by the Fire Chief. The exits are up near the front and if something happened to those exits how would the people get out? Even if it does have a sprinkler system, who knows. It just seems a good idea to have these exits near the rear.

Ms. Sibley, Commissioner, stated she would like to add that based on the testimony from the neighbors on South Summer Street we should condition that they not be used except in the case of an emergency. Mr. Wey agreed.

When there was no further discussion, Mr. Filley moved on to the possible vote.

It was moved and seconded that the Playhouse Theatre DRI be approved with conditions.

Mr. Filley stated they would go through the conditions and vote on each one individually.

1. A Plan of planting or fencing or both separating the Vose property from the Hall property come to LUPC for review and approval.

Mr. Moore, applicant's architect, stated there is a fence along the property line of the building between the Vose property. It was asked how high is this fence? Mr. Moore stated he doesn't remember exactly but it is high enough to screen.

Mr. Morgan reiterated that the condition is that a fencing/planting plan come to LUPC for approval.

Mr. Young asked if there is existing screening between this project and the neighbor abutting on South Summer Street? Mr. Simmons stated there is a row of trees of varying sizes, the elm and about 15 maples on the property line. Mr. Young asked if it screens the abutters? Mr. Simmons stated that the landscaping plan calls for removal of all the trees on the Shute House property. There is a present fence of about 2 1/2 feet high between the Shute property and the Rosenstadt property. Mr. Young asked but there is no screening proposed? Mr. Young suggested that the landscaping/screening condition that comes back to LUPC provide some screening there. Ms. Green added also on the other side. Mr. Young stated that is commercial. I am not so worried about that. I am particularly worried about the residential property which for years had a mini-park and now all of the sudden will be staring at this monstrous building without any screening whatsoever. Mr. Jason stated that building has been used for commercial purposes in the past. Mr. Young stated yes but it is still residential property.

Mr. Morgan stated he was hoping that what Mr. Young was talking about would come up separately and that Condition #1 would stand individually.

Condition #1, as originally stated, was approved with no opposition, 1 abstention, Eber.

Mr. Morgan questioned the amount of \$20,000 in lieu of the payment for parking spaces. I do agree that the theatre is very important. I do not expect the parking to be handled by the Halls for this theatre. I do question the \$20,000 in lieu of \$400.00 per space per year for a project that could conceivably require 11 to 40 spaces. I don't want to play a hold up game so I would like to start with \$20,000 although I think it is a little bit low. Regarding the fire problem it is a major issue but LUPC could not see a way to mitigate it. You cannot make a 3rd party covenant.

Ms. Sibley asked has anyone done the math regarding what would result as far as payment under the current by-law? Mr. Simmons stated that it would be \$16,800 annually based on 42 spaces, using standards based on theatre, ice cream parlour, office and retail space.

Mr. Filley asked how many people have contributed under the present by-law? Mr. Jason responded none.

Ms. Green stated she does feel that we need to ask for more than the \$20,000. Particularly in view of the fact that the Town does look at us and say you have found a way to relieve their requirements. We are really asking for only a little more than would be required for one year for a multitude of years. The Transit Authority will get more riders as a result of this theatre. We should ask for more.

Ms. Bryant stated that if a new vehicle is purchased I hope it will be handicap accessible.

Mr. Jason stated that he doesn't believe it is fair to burden one applicant with the parking problems of the Town. I think the \$20,000 is a fair amount. But if the Town does come up with a method to assess business in the future this project should be a part of it.

Ms. Sibley stated that we can't really overrule the Town regulations. Their letter did express that perhaps they are going to change them but they are in effect now. We can ask for more than they require but I don't think we can, through a condition, exempt them from meeting Town regulations. Mr. Filley stated that is true it would be the role of the Zoning Board of Appeals.

Mr. Early asked Mr. Simmons to read the paragraph from the Edgartown Planning Board regarding the inadequacy of the regulation. Mr. Simmons complied.

The second condition was made as follows:

2. The Commission accept the applicant's offer of an initial contribution of not less than \$20,000 to the Transit Authority for the trolley shuttle. This will not constitute an exemption from any future policy the Town may adopt regarding assessments for the Regional Transit Authority.

This condition was motioned and seconded. Discussion was as follows: Mr. Early stated the applicant has offered \$20,000 we should take it. Mr. Jason agreed. Ms. Sibley stated that if the Town comes up with a policy in the future might it be a problem for them to impose it on this as a pre-existing development by saying we don't exempt them. I wonder what we really mean is that we intend that they will be subject to any new policies? Mr. Jason stated I think the Town would have big problems if they chose to only assess the new guys. We should accept the applicant's offer of \$20,000.

When there was no further discussion Condition #2 passed with no opposition, 1 abstention, Eber.

Mr. Jason stated that the Planning Board made certain suggestions. I think we should consider them. Mr. Simmons read the Planning Board letter again which included the following suggestions: a) the theatre space be designated as such on the plan and that it be used only for a movie theatre; b) a condition in the lease to a theatre operator will include the requirement that the movie theatre operate year round and in the off-season a minimum of 3 days per week; d) five large trees, preferable american liberty elms be planted along the walkway from

South Summer Street paralleling main street; e) an appropriate landscaping plan for the mini-park be provided for review by the Conservation Commission.

Mr. Early asked the applicant if there is any other planned use for the theatre space? Mr. Moore responded lectures, slide presentations, musical performances. I don't know what the reasons are for limiting it to a movie theatre use.

Mr. Morgan stated he was going to suggest that we don't limit it because it might be used for exactly the type of things Mr. Moore mentioned.

Mr. Early stated we could use the condition and strike the word movie. We could condition that it be used only as a theatre.

Mr. Filley stated that we should not condition the overall use. If we want to be sure there are movies and for a limited time we should condition that period of time. Whatever change of use that might happen would come back to the Commission.

Ms. Sibley stated that the second suggestion requires that the lease includes a requirement that the movie theatre operate year round and in the off-season a minimum of 3 days per week. That to me seems to take care of the fact that the movie theatre will have to remain useable as a movie theatre.

Ms. Green asked does anybody know why the Planning Board would want such a condition? Mr. Morgan stated that if the use was converted to something else it would have to come back as a DRI. Ms. White, Executive Secretary stated that it would not constitute a change of use and trigger a DRI if the change was from commercial to commercial.

Mr. Hall stated that requiring a movie theatre be open 3 days per week would be in error. If the operator chooses not to utilize it we might have a problem getting a theatre operator. We intend on year round use but conditioning this on the lease and a set number of days, 3 days, might be a problem.

Mr. Jason asked isn't that the whole premise of this structure to rejuvenate downtown. Well a theatre is the reason for the benefit. If there isn't a year round theatre it wouldn't rejuvenate downtown. Mr. Hall stated we want it to be year round. Mr. Jason stated so this shouldn't be a problem.

Ms. Sibley stated she can see that it might be a problem but what Mr. Jason is driving at is that without operations year round you would be removing all the benefit. I understand the argument that this is going to be the best facility. They have always operated year round in Edgartown why wouldn't they now. But there is about to be a proposal for another theatre at the Triangle. It will also be a very new facility and not in the downtown area. While we might be perfectly happy to see that operating in addition to this I think the community would be ill served if that theatre ended up being the year round theatre and the downtown theatre ended up not being the year

round theatre. We would be right back where we are now.

Mr. Sullivan stated that was the thrust of the whole public hearing, this being downtown and being opened year round would be a benefit by rejuvenating downtown Edgartown.

Mr. Early stated we are being asked to swallow a lot of commercial development here for 2 theatres. 3 days per week is the minimum for me.

Ms. Green stated I don't see how we are going to revitalized downtown Edgartown if we only have a theatre that is opened on Saturday night or Sunday night. What is it doing for the Town? We have to have at least 3 days or not at all.

3. A condition be placed in the lease to the theatre operators will include the requirement that the movie theatre operate year round and in the off-season a minimum of 3 days per week.

There was no further discussion. The motion was approved with no opposition, 1 abstention, Eber.

Mr. Simmons then read the Planning Board recommendations relating to the 5 large elms to be planted along the South Summer Street walkway along the Vose parking lot.

Ms. Colebrook stated she doesn't think the area is large enough for 5 large elms.

Mr. Young stated that rather than arguing about the size and the number of trees now let's condition that the plan comes to LUPC.

Ms. Colebrook suggested that we add after discussion with Mr. Vose to Condition #1. This was agreed.

Ms. White, Executive Secretary, reread condition #1.

1. A plan of planting or fencing or both separating the Vose property from the Hall property come to LUPC for review and approval. Mr. Vose will be invited to give input into this planting/fencing plan.

Ms. Green stated that I am concerned that if we put in large trees we would have a fire fighting problem. Ms. Green stated that a plan should be reviewed by the LUPC, Planning Board and Conservation Commission.

4. The applicant will submit a landscaping plan for the entire site for review to LUPC, the Edgartown Planning Board and the Edgartown Conservation Commission. The Edgartown Conservation Commission will have final approval of said plan.

Mr. Jason stated that there were similar concerns over the landscaping of the A&P. We left that up to the Town and I don't think anyone objects to the final results.

Ms. Green stated she is concerned because the Planning Board is requesting 5 trees in an area that they might not fit.

Ms. Sibley stated the Planning Board had authority in the A&P DRI because of the parking lot. They do not have the same authority here. It was stated we can give them that authority. Mr. Jason stated there are too many people involved. Mr. Early stated that is why one entity, the Conservation Commission, will have final approval.

This motion passed with one opposition, Jason, and one abstention, Eber.

Mr. Simmons then read the letter from the Edgartown Historic District Commission which included their suggestions on this proposal.

There was discussion regarding the re-design of the roof pitch. Mr. Simmons stated that the revised plans have been submitted for the record. Ms. White stated that these revised plans can be noted on the decision in the section "as shown on the plans entitled" and that would be sufficient. This was agreed.

There was further discussion regarding the suggestion for the removal of the demi-lune window and replacement with the fan treatment and the condition against use of colored glass. It was stated that these are all within the purview of the Historic District Commission authority. Mr. Moore, applicant's architect, stated you would just be duplicating the District's authority.

It was decided to leave these matters up to the Historic District Commission.

Discussion followed on a condition for the addition of fire exits at the rear of each theatre for emergency use only.

There was discussion regarding the exact placement of the exits and the code requirements for such exits. It was decided to word the condition as follows:

5. Fire exits will be added to each theatre for emergency use only. The exits will be built to code with the final location to be approved by the Edgartown Fire Chief.

This motion passed with no opposition, 1 abstention, Eber.

Mr. Sullivan stated that regarding the heat/ventilation pump, 120 gallons per minute is a lot of water. I would like to see the plan come to LUPC. I would like the applicant to investigate altering this plan to include a recycling loop.

6. The plan for the design of the groundwater/heat pumps be reviewed and approved by LUPC.

Mr. Early asked what is the basis for which LUPC is qualified to make such a judgement.

Mr. Sullivan stated he would like to see them investigate the possibility of a recycling loop. This is not a closed loop.

Mr. Filley asked if the Board of Health would have to issue a permit for this? Ms. Colebrook responded no.

This motion passed with 3 opposed, Jason, Early, Filley, and 1 abstention, Eber.

Ms. Green stated she wants the theatre but would like to see the mass of the building reduced.

It was motioned and seconded to remove the 3rd floor of the building and the 2 offices spaces included there and reduce the mass of the building in the section that stretch into the mini-park.

Mr. Jason stated that while I agree that the mini-park is important I don't believe that people come to Edgartown to go to the mini-park. They come to go to the movies. The economic benefit of the movie theatre outweighs the need for a mini-park.

Mr. Colebrook stated that she believes the 2 offices there were to be for use of the Hall family. Mr. Hall stated that the third floor would be reserved for the family's use.

Mr. Early stated that the mass of a building has a lot to do with the shape. Taking off the 3rd floor will not reduce the building footprint. It will make it appear larger. Some good examples of this are in the Roadside District where the footprint is increased to meet the height requirement. I think this would have a visually detrimental effect.

Mr. Lee stated that we should remember the shadow studies. The third floor and front section will shade Main Street considerable. Mr. Lee stated he doesn't think removal of the 3rd floor would be detrimental and it would be beneficial to the shadow projections.

Mr. Moore stated that this building is 50 ft. back so the impact from the shadow projections will be seen on the Street at about Christmas time. The 3rd floor is a loft/mezzanine so removing it isn't going to change the height of the building unless you saw off the top flat and that wouldn't look good.

Ms. Colebrook stated so the shadow projections are going to effect what is left of the mini-park only? Mr. Moore stated that is correct.

Mr. Sullivan asked doesn't the Historic District Commission have the authority to review the mass and scale? The response was correct.

Mr. Morgan stated he grew up with the theatre right on the Street and only 2 trees for landscaping. This will allow a lot more sunlight than the old theatre.

Ms. Sibley stated it would be more appropriate to reduce the mass of

the project and let the applicant and the architect design the revised building.

The motion to remove the 3rd floor and reduce the portion of the building that goes into the mini-park failed with a vote of 4 in favor, 8 opposed, 2 abstentions.

There was discussion regarding the affordable housing issue. The following condition was suggested.

7. The applicant will contribute the sum of \$10,000 to the Regional Housing Authority for affordable housing.

This condition passed with 1 opposed and 1 abstention, Eber.

There was discussion about reducing the noise outside. It was stated that the HVAC system would come back to LUPC for review and approval. It was also stated that the applicant has chosen not to use an outside air cooled system and this will eliminate a lot of the outside noise.

It was motioned and seconded to remove the physical space now designated for the ice cream shop and use this space to relocate the dumpster now proposed to be located on the side of the residential abutter.

Mr. Hall stated that the dumpster is located where it is to make it handy to the retail and theatre space. It will be used for rubbish not garbage as you see in a restaurant. We have proposed to fence in the dumpster and keep it under lock so it can't be used by others.

Mr. Young stated he has a problem with the mass of this building. I think there is a universal consensus to approve the movie theatre and you are grabbing as much as you can along with it. I am proposing another removal of space since the last one didn't fly.

Ms. Sibley stated we should ask for a reduction of the building scale but not meddle into the design.

Mr. Filley called for a vote on whether or not the Commissioners felt the building scale should be reduced. 7 Commissioners were in favor of reducing the scale, 5 opposed, 2 abstained.

Mr. Lee stated that the Planning Board letter stated they want to see the size reduced and we should pay attention to that. The Planning Board should work on this with LUPC.

Mr. Filley asked Mr. Hall if he would consider a reduction in the building scale and if he had any suggestion regarding this consideration? Mr. Hall responded that if you are going to make such a drastic re-design of the building and make a reduction to such a degree you should just deny it. Mr. Filley asked if he would offer any reduction in space? Mr. Hall stated the Historic District Commission asked for a reduction and we complied. They unanimously agreed that our revisions addressed their concerns. Given the economics right now, we can't cut it back anymore and have it still be

economically feasible.

Mr. Early stated we should vote on this as it is. Let's either approve it or deny it as it is presented.

Mr. Lee stated we all want to see the movie theatre fly. However, if what we see is all we get then maybe we should deny it. If we deny this I am sure the applicant would come back with another plan. If this is what the proposal is then this is what we should be voting on.

Mr. Young stated that the reality of the situation is if we deny this proposal then Edgartown is going to withdraw from the Commission. We can't deny this. Mr. Young restated his motion to remove the physical space designated for the ice cream shop and place the dumpsters there.

Mr. Morgan stated we have never eliminated section of a building before. We have denied it completely or we have approved it. I have said all along that this is too much. I am certainly going to take a little more than I wanted to get the theatre and participate in the revitalization of the downtown area. We don't always get what we want at the Commission. But we don't want to kill the goose that laid the golden egg either.

Mr. Wey agreed that we should really vote on this proposal one way or the other. We can't decide whether to cut a piece out here or there. We should vote on the project as presented.

The motion to remove the physical space now designated for the ice cream shop and use this space to relocate the dumpster now proposed to be located on the side of the residential abutter failed with a vote of 5 in favor, 8 opposed, 1 abstention.

Ms. Sibley stated it is important to rethink the year round operation and the number of days to operate at a minimum. Everything we are taking here, all the compromises we are making on the mini-park, the size of the retail space, is predicated on the assumption that this is vital to the revitalization of downtown. I would like to suggest that we modify that so that instead of saying just a minimum of 3 days per week that we add to that a statement that the operator not operate this theatre any less than any other theatre might operate. Say a minimum of 3 days per week and that the operator not operate any less than other theatres.

Mr. Morgan stated this is a 3rd party covenant. What would happen if the Hall's stated that the person who wants to operate this theatre will not take it on this term? Ms. Sibley stated you have that problem already with what we approved. What I am suggesting does not change that aspect at all.

There was no seconded on this motion.

The following condition was motioned and seconded.

8. If there is ever a proposed change of use for the movie theatre space it comes back to the Commission as a DRI.

There was discussion that this would already require Commission review. It was stated that a change of use from commercial to commercial doesn't not constitute a change of use by our checklist. This would have to be conditioned.

Condition #7 was passed with no opposition, 1 abstention, Eber.

Ms. Colebrook stated I choke on the fact that I am negotiating for the life of a \$12,600 elm tree. I also have problems with the two shade trees protected under Chapter 87. There was discussion on these items. Regarding the shade trees, it was felt that this should be left to the Board of Selectmen, not the Tree Warden as their representative, unless that is what the Board of Selectmen decides.

9. Any public shade trees located on the proposed site will not be removed without the approval of the Board of Selectmen.

This motioned passed with no opposition, 1 abstentions.

The following condition was suggested: A sum of not more than \$12,600 will be contributed to the Conservation Commission if that old elm tree is removed.

There were questions as to the reason for this condition. It was stated the monies should be used for the replacement of trees in Edgartown at the discretion of the Conservation Commission. The motion was reworded as follows:

10. A sum of not more than \$12,600 will be contributed to the Conservation Commission if the old tree, which is valued at \$12,600, is removed. Said monies will be used at the discretion of the Conservation Commission for replacement of trees in the Town of Edgartown.

This motion passed with 3 in opposition, 2 abstentions.

When there were no further conditions proposed, Mr. Filley called the role on the motion to approve the Playhouse Theatre DRI with the conditions as listed above.

The motion to approve the Playhouse Theatre DRI with the conditions listed above passed with a vote of 11 in favor, 2 opposed, 1 abstention, Eber. (Geller abstained.)

ITEM #6 - New Business

Ms. White, Acting Executive Director on the pending MVY Realty Trust DRI, reported on recent activities on the site. She stated that according to DRI Decision #292, dated December 15, 1988, regarding the subdivision of this land any excavation, filling or physical alteration of the land requires Commission review. Recently dirt barriers were constructed without Commission approval. Ms. White gave recommendations on how to proceed including a staff visit to the site and discussions with the Building Inspector and the Applicant.

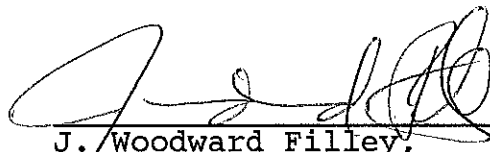
Commissioners asked Ms. White to investigate what is going on, send out a staff member to do a site visit and notify the Building Inspector of the conditions in Decision #292 regarding this matter.

ITEM #7 - Correspondence

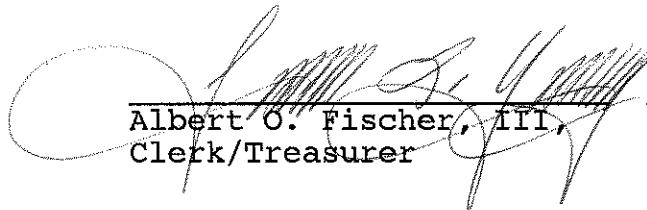
Mr. Filley read a letter of correspondence from Commissioner Larry McCavitt dated July 19, 1990. Mr. McCavitt announced his resignation from Coastal Zone Management and the Martha's Vineyard Commission.

The meeting was adjourned at 12:00 p.m.

ATTEST


J. Woodward Filley,
Chairman

8/9/90
Date


Albert O. Fischer, III,
Clerk/Treasurer

8/10/90
Date

Attendance

Present: Bryant, Colebrook, Early, Eber, Durawa*, Filley, Greene, Jason, Lee, Morgan, Schweikert, Sibley**, Sullivan, Wey, Young, Geller.

Absent: Fischer, Benoit, McCavitt, Allen, Harney, Davis.

* Mr. Durawa was not present at the table during Item #5, discussion and possible vote on the Playhouse Theatre DRI.

** Ms. Sibley was not present at the table during the continued public hearing on the M.V. Hospital Long Term Care Facility.